

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FABIO AMERICO HERRERA,

Plaintiff,

-v-

DOMINO'S PIZZA LLC et al.,

Defendants.
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18-CV-2996 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

The Court is in receipt of a letter from Defendants, which was filed as a motion to compel but asks the Court to issue an Order to Show Cause why Plaintiff's medical expert, Dr. Robert Haar, should not be held in civil contempt for failing to comply with a validly-served subpoena. Dkt. 55. The Court is also in receipt of a letter from Plaintiff stating that he "does not oppose Defendants' motion to the extent that [it] seeks to compel the deposition of Plaintiff's expert," but requests that Plaintiff not be sanctioned for his expert's failure to comply with the subpoena. Dkt. 56.

In light of Defendants' extensive efforts to depose Dr. Haar and his apparent repeated failure to sit for a deposition, even when served with a subpoena, it is hereby ORDERED that Plaintiff's motion to compel is GRANTED. Dr. Haar must comply with Defendants' subpoena and sit for a deposition by April 2, 2021. Plaintiff's request for an Order to Show Cause is DENIED without prejudice. If Dr. Haar fails to comply with this Order, Plaintiff may renew his request for an Order to Show Cause. The Court will also consider other relief in the event Dr. Haar fails to comply with this Order, such as a motion to preclude Dr. Haar's testimony should this case proceed to trial.

SO ORDERED.

Dated: March 19, 2021
New York, New York



JOHN P. CRONAN
United States District Judge